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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/871,903      | 06/04/2001  | Ford Oxaal           | RP990002US          | 3784             |

7590 09/19/2002

Westerlund & Powell, P.C.  
122 N. Alfred Street  
Alexandria, VA 22314-3011

EXAMINER

HAVAN, THU THAO

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2672

DATE MAILED: 09/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/871,903

Applicant(s)

OXAAL, FORD

Examiner

Thu-Thao Havan

Art Unit

2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. Formal drawings are approved.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims **1-16** are rejected under the judicially created doctrine of double patenting over claims 1-22 of U. S. Patent No. 6,243,099 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

A.) Re claim **1**, claims 11-12 of patent number 6,243,099 clearly and explicitly teach claim 1 of the present application (col. 9, lines 41-55). The claim 11 of the application recites the exact wording of claim 1 in present application except for "a direction". It is apparent that claim 12 of patent number 6,243,099 discloses a direction

because the limitations explicitly state "rotating the direction of view in the opposite direction".

B.) Re claims **2, 13, and 15**, claim 2 of patent number 6,243,099 claims all the limitations of claims 2, 13, and 15 of the present application (col. 9, lines 1-3).

C.) Re claim **3**, claim 3 of patent number 6,243,099 claims all the limitations of claim 3 of the present application (col. 9, lines 4-8).

D.) Re claim **4**, claim 5 of patent number 6,243,099 claims all the limitations of claim 4 of the present application (col. 9, lines 12-16).

E.) Re claims **5 and 9**, claim 6 of patent number 6,243,099 claims all the limitations of claims 5 and 9 of the present application (col. 9, lines 17-26).

F.) Re claims **6 and 10**, claim 7 of patent number 6,243,099 claims all the limitations of claims 6 and 10 of the present application (col. 9, lines 28-29).

G.) Re claim **7**, claim 8 of patent number 6,243,099 claims all the limitations of claim 8 of the present application (col. 9, lines 30-34).

H.) Re claims **8 and 11**, claim 10 of patent number 6,243,099 claims all the limitations of claims 8 and 10 of the present application (col. 9, lines 39-40).

I.) Re claims **12 and 14**, claims 11-13 of patent number 6,243,099 clearly and explicitly teach claims 12 and 14 of the present application (col. 9, line 41 to col. 13, line 6). The claim 11 of the application recites the exact wording of claims 12 and 14 in present application except for "interactively changing said direction of view to thereby select a second direction of view". It is apparent that claim 13 of patent number 6,243,099 discloses interactively changing said direction of view to thereby select a

second direction of view because the limitations explicitly states "interactively changing said direction of view to thereby display another portion of said texture mapped p-sphere". When the limitation of interactively changing a direction of view then that is changing directions from one direction (i.e. first direction) to another direction (i.e. second direction) of view.

J.) The limitations of claim **16** analyzed as discussed with respect to claims 1, 12, and 14 above.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Acker, US patent no. 6,016,439

Chen et al., US Patent No. 5,396,583

Cohen et al., US Patent No. 6,028,955

Kanade et al., US Patent No. 6,084,979

Golin et al., US Patent No. 6,031,540

Taylor et al., US Patent No. 5,973,700

Erdahl et al., US Patent No. 5,699,497

Gueziec et al., US Patent No. 5,951,475

Oxaal, US Patent No. 5,903,782

### Inquiries

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu-Thao Havan whose telephone number is (703) 308-7062. The examiner can normally be reached on Monday to Thursday from 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on (703) 305-4713.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

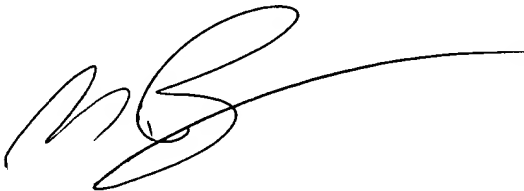
or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Thu-Thao Havan  
Art Unit: 2672  
September 16, 2002



**MICHAEL RAZAVI**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600